UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.105/C.2/SR.548
18 April 1991
ENGLISH
ORIGINAL: FRENCH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirtieth session

SUMMARY RECORD OF THE 548th MEETING

Held at Headquarters, New York,
on Wednesday, 10 April 1991, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

The elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, Department of Conference Services, room DC2-750, 2 United Nations Plaza.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.50 a.m.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE, WITH THE AIM OF FINALIZING THE DRAFT SET OF PRINCIPLES (continued)

1. Mr. MOTSYK (Ukrainian Soviet Socialist Republic) said that despite the difficulties encountered by the Working Group in its consideration of some aspects of agenda item 3, considerable progress had been made, particularly in recent years.

2. Having suffered from the terrible Chernobyl disaster, the Ukrainian SSR was particularly sensitive to the issue of the use of nuclear power sources (NPS) in outer space. It unreservedly supported the delegations which believed that NPS should be restricted to those space missions which could not be operated without them, such as interplanetary missions. The use of NPS should also be consistent with radiation protection standards, which were intended to protect populations from any further nuclear disasters. As the Canadian delegation had stated at the preceding session of the Legal Subcommittee, an accident involving NPS was entirely different from one related to the operation of solar batteries.

3. The Working Group on the elaboration of the legal framework for the use of NPS should first of all ensure that all possible guarantees of safety applied to such use. It was of paramount importance to define the obligation concerning notification of the launching of space objects having nuclear power sources on board and of any accidents involving such objects. Unfortunately, the issue of notification had not yet been resolved. The argument that the principle was superfluous or unrelated to the safe use of NPS was unconvincing. Draft principle 2, as it appeared in document A/AC.105/C.2/L.154/Rev.6, could constitute an acceptable basis for a resolution of the issue. His delegation hoped that consideration of document A/AC.105/C.2/L.183 would enable the Subcommittee to find acceptable formulations.

4. It was also important that documents on safety assessments of NPS use should be published periodically before each launch. In addition, information on how to obtain such documents should be supplied to the Secretary-General. The documents themselves, containing detailed information on such assessments, could be provided to interested States upon request. Moreover, the issue of State responsibility and of compensation should be settled at the legal level, in accordance with the provisions of the Convention on International Liability for Damage Caused by Space Objects (the 1972 Liability Convention). The norms elaborated should be consistent with the provisions of the Convention on Early Notification of a Nuclear Accident and of the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, adopted by the International Atomic Energy Agency in 1986.

5. Mr. MEHRA (India) said that owing to the progress made at the preceding session of the Subcommittee and of its Working Group, consensus had been reached on a number of draft principles concerning NPS. In particular, consensus had been reached on principle 3, which was probably the most important of all. While that achievement was cause for satisfaction, consensus had yet to be reached on the principles of prior notification, safety assessment, definition of launching State, responsibility and compensation.

6. His delegation thought it was possible for the Subcommittee to move rapidly towards the finalization and adoption of the entire set of principles on the use of NPS. It was necessary to begin with the principles concerning notification and safety assessment. Although some flexibility could be shown in respect of the time of notification, the launching State must provide information on the presence of NPS on board objects launched into outer space and technical details on their use. Furthermore, safety assessments should be carried out by the launching State prior to the launch. The launching State would have all the necessary scientific and technical knowledge of the design and construction of the space object having NPS on board, which would enable it to observe strictly the criteria for safe use laid down in principle 3. However, States which launched objects carrying NPS but which had not manufactured said objects themselves should not be held responsible for the observance of safety standards on an equal footing with States that launched objects which they had manufactured themselves. Responsibility for safety assessment lay with the manufacturing State, especially when that State did not itself carry out the launch.

7. With respect to the draft principle on responsibility, the amount of compensation should be determined according to the extent of the damage actually caused by an accident. Whereas damage assessment was a question of fact, the amount of compensation should be set in accordance with international law.

8. His delegation also felt that the principles on which consensus had already been achieved should not be reopened to debate, and that principle 12, which provided for possible future revisions, could serve as a basis for any updates.

9. Ms. VENTURINI (Italy) said that if the Subcommittee was to reach consensus on the outstanding items, it should base its deliberations on the scientific groundwork laid by the Scientific and Technical Subcommittee. The work of scientific experts should also be the basis for the review of principles previously agreed upon, since the value of legal principles must be continuously confirmed by the results of scientific research.

10. Her delegation wished to thank the Canadian, French, German and Swedish delegations for their work on combining principle 2 (notification) with principle 4 (safety assessment). She hoped that the Subcommittee would shortly adopt the new version of principle 4.

(Ms. Venturini, Italy)

11. The principles concerning the international responsibility of States engaged in space activities involving the use of nuclear-power sources were of paramount importance. Those principles must be in line with existing instruments, particularly the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (the 1967 Outer Space Treaty) and the 1972 Liability Convention. Of course, the principles should be considered as a separate legal instrument which furthered and enhanced the purpose and aims of existing instruments, while having different legal effects.

12. Principle 8 (responsibility) and principle 9 (compensation) actually laid down four different concepts. Principle 8 dealt with the effective responsibility of States engaged in activities involving the use of nuclear power sources and with their duty to keep all national space activities under control, while principle 9 referred first to international liability for damage caused by space objects carrying NPS and then to the determination of compensation. Given their complexity, the principles required careful consideration. In that spirit, the Italian delegation had co-sponsored a working paper containing a new version of principles 8 and 9, which it believed would help to clarify the matter, thus constituting a good basis for consensus.

13. The definition of the term "launching State" or "State launching" a space object having a nuclear power source on board did not require a uniform solution; different solutions could be applied for the purpose of different principles. Her delegation therefore believed that the matter deserved further consideration, and trusted that all delegations would make additional contributions to the discussion on that point.

14. Mr. FUJITA (Brazil) said that, given the rapid pace of advances in science and technology and the complexity of elaborating legal guidelines to regulate them, it was important for the Subcommittee to conclude its work on principles governing the use of nuclear power sources in outer space as soon as possible.

15. At the previous session of the Scientific and Technical Subcommittee, one delegation had raised a question relating to assessment of risks stemming from the use of NPS, and one organization had suggested that the criteria selected by the Subcommittee should be aligned with those concerning radiological protection adopted in other forums. As to the first element, his delegation, while recognizing the right of any delegation to raise new considerations, would hope that such a situation would not hinder progress and, as to the second, it underscored once again the crucial importance of constant exchange of information and coordination between United Nations bodies, particularly the Committee on the Peaceful Uses of Outer Space, the International Atomic Energy Agency and the Conference on Disarmament, regarding work in related fields.

(Mr. Fujita, Brazil)

16. His delegation viewed with some apprehension the attempts to simplify the content of some of the draft principles under consideration, which were allegedly designed to expedite work. Certainly it was important to proceed as rapidly as possible; however, it should be remembered that when the safety of human beings and the environment was at stake, particularly when nuclear power was involved, to accept what was merely good was perhaps not good enough. A set of principles, in order to be universally accepted, must be balanced and equitable and must take into account all relevant aspects.

17. Turning to documents A/AC.105/C.2/L.154/Rev.7 and A/AC.105/C.2/L.183, he thanked the delegations of Germany, Canada, France and Sweden for their work, but noted that, while commendable, those documents raised some points of fundamental concern to his delegation. First was the matter of definitions. Brazil had always stressed the need to define clearly the concept of "launching State". It welcomed the inclusion of a new principle 1A to that effect, but believed that it was not sufficient to simply repeat the wording of the Convention on Registration of Objects Launched into Outer Space, since the latter did not cover all the peculiarities relating to the use of NPS in space.

18. Actually, the launch of a space object involved the manufacturers of the NPS, the manufacturers of the space objects and their components, those of the launching vehicle, launching platform and related infrastructure, and the State from whose territory the launch was carried out. As space technology became more complex, those elements did not necessarily come under the control and responsibility of a single State. That raised questions of responsibility and civil liability. A variety of situations must be addressed to ensure equitable sharing of responsibilities without simplifying definitions. For instance, a State which had simply acquired or leased a space object from another State without having access to the NPS technology on board could not be held responsible for accidents caused by defects in its functioning. Likewise, a State only furnishing the launching site with no jurisdiction or control over the launching vehicle or the space object carrying NPS could not be considered to have the primary responsibility for the release of the safety assessment, since it had neither the means nor the knowledge necessary to evaluate all the technology involved. An important element of that consideration was the relationship which seemed to exist between the assessment and the question of liability and compensation dealt with elsewhere in the set of principles. To reason otherwise might entail the need for a revision of existing regimes concerning nuclear power source safeguards and launching vehicles.

19. For the purposes of the Subcommittee's work, there was a clear imbalance between the elements relating to the definition found in the Convention on Registration, which stated that a launching State was a State which launched or procured the launching of a space object or a State from whose territory or facility the space object was launched. The phrase "State which launches" was very general and could comprise various States or groups of States: the State

(Mr. Fujita, Brazil)

possessing the necessary technology, the State with the necessary financial resources or even the State from whose territory the space object was launched. The definition found in the Convention was too restrictive.

20. According to the draft text, if the object was not registered, the launching State was the one which exercised or planned to exercise jurisdiction and control over said space object. The key element was ownership of the space object. His delegation felt that, if its participation was limited to purchase and operation, the final user could not be held responsible alone for a space object. That State was not necessarily the one which had designed and manufactured the object in question. Thus, the definition must also include States which had planned and produced the space object with NPS and its equipment. Given the growing number participating in a single space operation, the concept of "launching State" should be approached in the context of a plurality of States.

21. The serious and important issues related to the use of NPS justified a greater effort to broaden the definition of launching State. If consensus could not be achieved on the possibility of considering the various roles and attributions of the launching State in the context of each principle under examination, his delegation was preparing to work on a more general definition, taking into consideration the concrete participation of each State in the launching of a space object. But it would not be willing to forego its basic interests and concerns as expressed.

22. Brazil had always been of the opinion that States planning to launch space objects with NPS should give prior notification of their intention to the international community and should provide information concerning the time and place of launch, the planned flight trajectory and the nature of the nuclear source, to enable those countries in the vicinity of the launching site to take necessary precautions and measures in due time to ensure the safety of their population. That principle would not only enhance confidence-building among States, since it reinforced the idea of transparency of space and nuclear activities, but would also represent a favourable element in the perception of various peoples in relation to the use of nuclear power sources.

23. Brazil did not consider that the idea of prior notification should be grouped with that of prior safety assessment. Prior notification was related to an event well defined in time and space, while safety assessment involved a product or group of products, and might or might not include the necessary information required for making decisions on safety measures outside the launching State. It could also involve an identical document repeated on each occasion that the same product, or the same space object, was launched, in so far as the concept of safety assessment could not be dissociated from the guidelines and criteria for safe use defined in principle 3.

24. Some delegations had proposed that the two concepts be combined into one principle, the new principle 4. His delegation did not believe that was the

(Mr. Fujita, Brazil)

best way of clarifying the matter, but it was not opposed to the idea of combining the two principles, provided that both concepts (prior notification and prior safety assessment) were clearly presented in the text. He proposed in that regard that the title of new principle 4 should be worded as follows: "Safety assessment and notification of the presence on board a space object of a nuclear power source". The current title was too restrictive.

25. Furthermore, the draft principle should include language stipulating that the launching State should inform the Secretary-General of the United Nations, prior to each launch, of the approximate time and date of launching, the territory or location of launching, the territories or countries under the planned flight trajectory, and the nature of the nuclear source.

26. New draft principle 4 (in document A/AC.105/C.2/L.183) stipulated that the safety assessment should deal with all systems involved, including, for example, the means of launching, the space platform, the nuclear power source and its equipment, and the means of control and communication between ground and space, and also that the assessment should respect the guidelines and criteria for safe use contained in principle 3. However, three aspects of the proposed text (the means of launching, the space platform, and the communications between ground and space) were not comprised in the guidelines in draft principle 3. On what basis, then, should those assessments be made? Was the implication that the new formulation might entail further discussions on the guidelines and criteria for safe use so as to include the parameters of the aspects in question? His delegation considered that the safety assessment was related to the guidelines and criteria for safe use agreed upon during the Subcommittee's last session, and therefore that the assessment should cover all systems involved. In the second sentence of the first paragraph, the last phrase beginning with the words "including, for example, ...", was not only redundant - for the term "all systems" did not require further qualification - but also gave unequal prominence to some elements without including others related specifically to the nuclear power source and its equipment.

27. Brazil therefore urged that all interested delegations should address the inconsistencies just mentioned, and it was ready to cooperate actively with them on finding mutually acceptable formulations.

28. Before concluding, he stressed once again that Brazil's paramount concern was the protection of the population and environment of a country that spread across a very large territory and was particularly vulnerable to possible space accidents. To ensure safety, his delegation would work untiringly to overcome the remaining differences in order to fill the lacunae in that area of the legal regime governing outer space.

29. Mr. MARTINSEN (Argentina) said that he thought the question of the definition of the term "launching State" could be properly resolved using existing space law as a basis. In that connection, Argentina felt that draft principle 9, to the extent that it contained a definition of the launching State for the purpose of attributing international liability, should be

(Mr. Martinsen, Argentina)

harmonized as far as possible with the provisions of article VII of the 1967 Outer Space Treaty.

30. As to draft principles 2 and 4, their amalgamation could prove to be positive, but at the same time any provision amalgamating the concepts of notification and safety assessment should be formulated so as to enable the States whose territory lay within the probable area of impact of a space object with a nuclear power source on board to take whatever steps were needed to protect themselves in case of accident. With regard to draft principles 8 and 9, his delegation was satisfied with the progress made in the texts contained in document A/AC.105/C.2/L.184 which, in its view, was an appropriate basis for consensus.

31. Referring to an accident which had occurred after the Salyut 7 orbital station had fallen on Argentine territory, he said that his Government and the Soviet Government had very clearly shown their intention to comply with existing international law in connection with the aftermath of that accident. It should be noted, however, that the search operations for fragments of the station and the work of assessing the damage had not yet been completed and that it was thus still not possible to conclude the matter. That had put Argentina in a very peculiar situation, for it had neither the experience nor the information needed to take the appropriate preventive measures.

32. His delegation therefore wished to emphasize, first, that it considered it to be of the utmost importance that countries with extensive experience in the outer space field, especially in the prevention of the dangers involved in that type of accident, should help the countries which did not have those advantages to acquire the knowledge needed for adopting effective measures. Secondly, it was necessary for the States on whose territory a space object might fall to have access to prior information on the threat of an accident, and not after the fact, as in the case of the accident in Argentina. Such information should be furnished in a timely way not only by the State internationally responsible for the space object but also by the States which had the capability of following the object's trajectory.

33. Mr. HERNANDEZ (Mexico) said that the General Assembly, out of concern over the nuclear threat, had at its very first session established a Commission to deal with the Problems raised by the Discovery of Atomic Energy, which was to make specific proposals for ensuring the use of atomic energy only for peaceful purposes and for the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction.

34. Now, 45 years later, Mexico watched with great concern as nuclear power continued to be put to military uses and the international community still did not have a universal set of regulations that would guarantee the use of nuclear power under conditions of absolute safety and exclusively for civilian purposes. His delegation therefore attached great importance to the adoption of a set of legal principles relevant to the use of nuclear power sources in outer space, for that could facilitate negotiations in a few years on a

(Mr. Hernandez, Mexico)

convention on the matter. The task was not an easy one, but his delegation was convinced that with the necessary political will, the Subcommittee could finish its work on the question in 1992 at the latest.

35. Specifically, with regard to draft principles 2 and 4, Mexico believed that the principle of transparency should govern all outer space activities and that it was absolutely necessary to include in the text a provision on the need for notification, prior to launching, of the presence on board a space object of a nuclear power source. It was also important to define clearly the notion of a "launching State", as well as the responsibilities of such a State with regard to the safety assessment. If those two issues were duly reflected in the set of principles, his delegation could join the consensus on amalgamating draft principles 2 and 4.

36. With regard to draft principle 7, the Working Group on agenda item 3 had at the last session agreed that it would consider the question of where to include a provision on the technical assistance to be provided by the launching State in the event of the re-entry into the atmosphere by a space object with a nuclear power source on board. Because a text on the matter was already available, adopted by consensus in the Scientific and Technical Subcommittee as part of its recommendations on the guidelines and criteria for the safe use of nuclear power sources, his delegation had no doubt that the question would be easily resolved.

37. With regard to draft principles 8, 9 and 12, the draft texts proposed by Germany and Canada in document A/AC.105/C.2/L.154/Rev.7 could serve as a basis for consensus. As for draft principle 11, the texts to be adopted by the Subcommittee should have the legal force of an international agreement.

38. Mexico had always taken an active part in the deliberations and negotiations on nuclear disarmament, within the United Nations and in other forums, and its ultimate objective was to have nuclear power used exclusively for peaceful purposes in support of efforts towards the economic and social development of all peoples, within the framework of a stable system of international peace and security. The elaboration of legal provisions to that end was the responsibility of all mankind, and any work done in the area could be done only in a political context. The progress made by the Subcommittee could promote progress in the use of nuclear power for peaceful purposes on earth and in outer space.

39. Mr. KHABIROV (Union of Soviet Socialist Republics), speaking in exercise of the right of reply with reference to the statement just made by the representative of Argentina, stated that the Soviet Union had already had occasion to give a thorough report to the Subcommittee on the steps it had taken during the final phase of the flight of the Salyut 7-Cosmos 1687 orbital complex. He recalled that information on that flight had been communicated regularly and as often as necessary to the international community, both through the TASS Agency and through the diplomatic channel. The statements

(Mr. Khabirov, USSR)

made by Argentina deserved careful study, and the Soviet Union certainly intended to comply fully with the provisions of the Convention on International Liability for Damage Caused by Space Objects.

40. The CHAIRMAN said that the Subcommittee had completed its consideration of agenda item 3.

The meeting rose at 11.45 a.m.

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.105/C.2/SR.549
25 April 1991
ENGLISH
ORIGINAL: FRENCH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirtieth session

SUMMARY RECORD OF THE 549th MEETING

Held at Headquarters, New York,
on Friday, 12 April 1991, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

Commemoration of the thirtieth anniversary of Yuri Gagarin's flight

Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries (continued)

/...

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, Department of Conference Services, room DC2-750, 2 United Nations Plaza.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

CONTENTS (continued)

The elaboration of draft principles relevant to the use of nuclear power sources in outer space, with the aim of finalizing the draft set of principles (continued)

Adoption of the report of the Legal Subcommittee

The meeting was called to order at 10.40 a.m.

1. The CHAIRMAN proposed that the meeting should be suspended in order to give delegations an opportunity to study the final sections of the draft report.

The meeting was suspended at 10.41 a.m. and resumed at 10.55 a.m.

COMMEMORATION OF THE THIRTIETH ANNIVERSARY OF YURI GAGARIN'S FLIGHT

2. The CHAIRMAN pointed out that the 549th meeting was taking place on a date that was of particular significance from the standpoint of the Subcommittee's work. Exactly 30 years earlier, on 12 April 1961, the first manned space flight had taken place and Soviet cosmonaut Yuri Gagarin had become the first "envoy of mankind in outer space", to use the expression adopted in the 1967 Outer Space Treaty. He congratulated the delegation of the Soviet Union and all other delegations on the thirtieth anniversary of that historic event.

3. Mr. KHABIROV (Union of Soviet Socialist Republics) said that 12 April 1961 was an important date in the annals of civilization. Now that huge orbital space stations could remain in space for many months, the achievements of the first flight of a manned space vehicle, which had weighed barely 6 tons and had orbited the Earth only once, might seem modest. However, those 108 minutes in space had changed the world by ushering in, after the first era of the great geographical discoveries, the era of space exploration, when man had succeeded in breaking free of the fetters of gravity on his home planet. While taking pride in its trail-blazing role, made possible by the efforts of all its sons, the Soviet Union considered that all civilization shared but one history, in which the destinies of all peoples and the values of all men came together, and hence Gagarin's flight was the achievement of mankind as a whole. By their very nature, space activities were conducive to international assistance and should help to solve world problems. Space activities involved progress to a qualitatively higher level of international cooperation, a level of growing interdependence and integration of civilization. As 1992 - International Space Year - drew near, thought should be given to ways and means of enhancing the effectiveness of space activities and establishing large-scale international cooperation. Thirty years earlier, when Gagarin had said, as he flew over the planet, "how beautiful the Earth is", he uttered words of great simplicity which form part of the intellectual heritage of all peoples. The object at the current time was to avoid destructive confrontations between peoples, to prevent ecological disaster and to develop principles of good-neighbourliness and cooperation so that future "envoys of mankind", on returning from long and difficult expeditions in space, would be able to say, like Gagarin, "how beautiful the Earth is".

4. Mr. BOYER (France) expressed admiration, on behalf of his delegation, for the achievement of Yuri Gagarin and the team of Soviet scientists who had opened up a new dimension for mankind and research.

5. Mr. ZAWELS (Argentina) said his delegation joined in commemorating the first flight of a manned space vehicle and paid a tribute to all those individuals and States whose efforts and sacrifices had made possible the beginning of the great adventure of outer space.

6. Mr. MEHRA (India) saluted the historic achievement of Yuri Gagarin, who, by opening up new horizons for science, technology and human civilization, had taken an important step forward for mankind as a whole. He welcomed the increasingly important role which cooperation was playing in the exploration and utilization of outer space.

7. Mr. ANI (Nigeria) said he wished to join in congratulating the representative of the Soviet Union and paid a tribute to that country's scientists. Thanks to their bold achievements, outer space was being explored and utilized for peaceful purposes by many countries and the 1967 treaty was helping to ensure that the benefits of those activities were shared equitably.

8. Mr. PERRI (Brazil) said that, thanks to Yuri Gagarin, people had become aware that space belonged to mankind as a whole and that it must be explored and utilized in a rational and equitable manner in the interest of all peoples, irrespective of their degree of economic or scientific development, and preserved for future generations.

9. Mr. GONZALEZ (Chile) said that the technological feat of the first manned space flight had been the starting point for new activities in outer space. That, in turn, had opened up the new fields of space cooperation and space law. Efforts were needed to strengthen international cooperation in outer space, while paying special attention to the needs of the developing countries. His country hoped that a Chilean cosmonaut would be able to take part in a future flight of a Soviet space shuttle.

10. Mr. KOPAL (Czechoslovakia) said that he had had the good fortune to meet Yuri Gagarin on two occasions. The Soviet cosmonaut's achievement should inspire the international community to work for the establishment of peace on Earth and the development of cooperation in space.

11. Mr. HERNANDEZ BASAVE (Mexico) said that the best way to pay tribute to the pioneers of outer space was to ensure that the utilization of outer space would help to improve the living standards of all the inhabitants of the Earth.

12. Mr. BABAR (Pakistan) endorsed the tribute paid to Yuri Gagarin and the expressions of congratulation addressed to the Soviet delegation.

13. Mr. KHABIROV (Union of Soviet Socialist Republics) thanked all those delegations which had spoken for the warm congratulations which they had addressed to his delegation.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (continued)

14. Mr. PERRI (Brazil), introducing the working paper in document A/AC.105/C.2/L.182 on behalf of the sponsors, said that the working paper was intended to develop the three principles on which the legitimacy of utilizing and exploring outer space was based, namely, international cooperation, the utilization of outer space exclusively for peaceful purposes and the preservation of outer space for future generations. The working paper reflected the broad spectrum of views expressed in the discussion of agenda item 5 and should be viewed as a point of departure, to be continually revised and perfected through the contributions of all delegations, many of which, it was to be hoped, would join as sponsors. The ultimate aim of the process was the submission for adoption by the General Assembly of draft principles on international cooperation in the exploration and utilization of outer space for peaceful purposes that would enjoy the support of all delegations.

15. In conclusion, he pointed out that 1991 marked the tenth anniversary of the first flight of a space shuttle, a reusable vehicle that could serve to strengthen international cooperation.

16. Mr. HERNANDEZ BASAVE (Mexico) said that the working paper should make a positive contribution to the progressive development of international space law and to the establishment of a legal framework for international cooperation in the exploration and utilization of outer space for the benefit and in the interests of all States, taking into particular account the needs of developing countries. He hoped that all delegations would continue to contribute to the study of that question at the next session.

17. Mr. ZAWELS (Argentina) said that the working paper would lead to progress in the consideration of agenda item 5 at the next session and would make it possible to identify the actual scope of the principle of international cooperation in outer space more clearly.

18. Mr. GONZALEZ (Chile) said that the working paper, which put forward a concept of international cooperation on which all delegations should be able to agree, would contribute to the progressive development of space law in the interest of both developing and developed countries. The serious tone of the proceedings had constituted proof of an efficient use of the time allotted, which should not be reduced.

19. Mr. ANI (Nigeria) said he hoped that careful consideration of the working paper would convince delegations to endorse the goals that had been set during its drafting.

20. Mr. BABAR (Pakistan) said he was convinced that the working paper would foster a constructive debate on agenda item 5 at the next session.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE, WITH THE AIM OF FINALIZING THE DRAFT SET OF PRINCIPLES (continued)

21. Mr. TETU (Canada), speaking on behalf of his own delegation and the German delegation, introduced working paper A/AC.105/C.2/L.154/Rev.9, which reflected the discussions that had been held during the current session and offered what many delegations considered to be a solid basis for consensus on draft principles 1 (a), 4, 8, 9 and 12. He asked to have the working paper annexed to the Subcommittee's report with a view to its consideration at the 1991 session of the Committee on the Peaceful Uses of Outer Space, in which he hoped many legal experts would take part.

22. The CHAIRMAN said that document A/AC.105/C.2/L.154/Rev.9 would be annexed to the Subcommittee's report.

ADOPTION OF THE REPORT OF THE LEGAL SUBCOMMITTEE (A/AC.105/C.2/L.181 and Add.1-7)

A/AC.105/C.2/L.181/Add.2

23. Mr. ZAWELS (Argentina), speaking as Chairman of the Working Group on agenda item 4, introduced the Group's report which had been adopted without a vote. In the last sentence of paragraph 18, the phrase "of the Group of 77", appearing after the phrase "working non-paper", should be deleted. He hoped that the spirit of cooperation which had allowed the Working Group to make progress during the current session would prevail in the future work of the Group.

24. The CHAIRMAN said that, if he heard no objection, he would take it the Subcommittee wished to take note with satisfaction of the report of the Chairman of the Working Group on agenda item 4, as just revised, and to annex it to its report.

25. It was so decided.

A/AC.105/C.2/L.181/Add.5

26. Mr. GONZALEZ (Chile), speaking as Chairman of the Working Group on agenda item 5, introduced the Working Group's report. The report was the product of the pragmatism displayed by all delegations during the debate, particularly in determining the best way of taking up the agenda item in order to achieve concrete results. Given the progress achieved, allowed him to say that in the future a consensus could be reached on those questions.

27. The CHAIRMAN said that, if he heard no objection, he would take it the Subcommittee wished to take note with satisfaction of the report of the Chairman of the Working Group on agenda item 5 and to annex it to its report.

28. It was so decided.

A/AC.105/C.2/WG/NPS(1991)/DR.1 and DR.2 and A/AC.105/C.2/L.181/Add.7

29. Mr. WINKLER (Austria), speaking as Chairman of the Working Group on agenda item 3, introduced the report of the Working Group, which had been adopted by consensus. While the Working Group had not been able to add another principle to the list of principles on which consensus had already been reached, the work done during the current session would undoubtedly help to further progress on the issue.

30. The CHAIRMAN said that, if he heard no objection, he would take it the Subcommittee wished to take note with satisfaction of the report of the Chairman of the Working Group on agenda item 3 and to annex it to its report.

31. It was so decided.

A/AC.105/C.2/L.181

Paragraph 1

32. Paragraph 1 was adopted.

Paragraph 2

33. Mr. KHABIROV (Union of Soviet Socialist Republics) drew attention to a typographical error in the second line of the Russian text.

34. Paragraph 2 was adopted.

Paragraph 3

35. Paragraph 3 was adopted.

Paragraph 4

36. Mr. KHABIROV (Union of Soviet Socialist Republics) said that Uruguay had been omitted from the list of States members of the Subcommittee and should be added.

37. Paragraph 4, as revised, was adopted.

Paragraphs 5-11

38. Paragraphs 5-11 were adopted.

39. Document A/C.105/C.2/L.181, as revised, was adopted.

A/AC.105/C.2/L.181/Add.4

Paragraphs 1, 2 and 3

40. Paragraphs 1, 2 and 3 were adopted.

Paragraph 4

41. Mr. GONZALEZ (Chile) proposed that, in the Spanish version, in the thirteenth line the word "competencia" should be replaced by the word "mandato" and that the following sentence should be added:

> "It was also recalled, in this connection, that the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space, subsidiary organ of the Conference on Disarmament, had no mandate to negotiate, and that this was inconsistent with the regulations of that Conference."

42. Paragraph 4, as amended, was adopted.

Paragraph 5

43. Paragraph 5 was adopted.

Paragraph 6

44. Mr. KHABIROV (Union of Soviet Socialist Republics) proposed that the following paragraph 6 bis should be inserted: "The Subcommittee commemorated the thirtieth anniversary of the first flight of man into outer space accomplished on 12 April 1961 by Yuri Gagarin".

45. Paragraphs 6 and 6 bis were adopted.

Paragraphs 7 and 8

46. Paragraphs 7 and 8 were adopted.

47. Document A/AC.105/C.2/L.181/Add.4, as amended, was adopted.

A/AC.105/C.2/L.181/Add.6

Paragraphs 1, 2 and 3

48. Paragraphs 1, 2 and 3 were adopted.

Paragraph 4

49. Mr. HODGKINS (United States of America) requested that the working paper submitted by his delegation (A/AC.105/C.2/L.185) should be included in the list of documents.

50. Mr. KHABIROV (Union of Soviet Socialist Republics) said that he objected to that proposal, because the working paper in question had not been submitted to the Committee for consideration.

51. Mr. TETU (Canada) requested that a reference should be made to document A/AC.105/C.2/L.154/Rev.9, submitted by his delegation at the current meeting, in paragraph 4 or in a paragraph 4 bis.

52. Mr. KHABIROV (Union of Soviet Socialist Republics) said that, if need be, it would be possible, for example, to add the following at the end of the first sentence: "The delegation of the United States of America and the delegations of Canada and Germany submitted working papers under symbols A/AC.105/C.2/L.185 and A/AC.105/C.2/L.154/Rev.9, respectively." A distinction would thus be drawn between those documents and the documents that the Subcommittee had actually had before it.

53. Mr. HODGKINS (United States of America) said that document A/AC.105/C.2/L.185 had been submitted to the Working Group on Agenda Item 3. It was therefore normal to refer to that working paper as one of the documents that had been before the Subcommittee.

54. Mr. KHABIROV (Union of Soviet Socialist Republics) said that he could not endorse that point of view. Document A/AC.105/C.2/L.185 had been submitted literally just a few minutes before the Working Group had completed its work. That fact was mentioned in the Working Group's report (A/AC.105/C.2/WG/NPS(1991)/DR.2, para. 28).

55. Mr. SCHAFER (Germany) said that documents A/AC.105/C.2/L.185 and L.154/Rev.9 did not have exactly the same status. He therefore proposed that, in order to draw a distinction between the two documents, two separate sentences should be inserted before the second sentence, one indicating that the United States delegation had submitted a document, without any further elaboration, and the other indicating that the German and Canadian delegations had submitted a working paper, whose title would be stated.

56. Mr. GONZALEZ (Chile) said that the Subcommittee could not give the same status to documents that had been submitted in advance and duly considered - such as documents A/AC.105/C.2/L.183 and L.184 - and documents submitted at the last minute that it had been impossible to consider at all, as in the case of documents A/AC.105/C.2/L.185 and L.154/Rev.9. The two latter documents should therefore be mentioned in a separate paragraph.

57. Mr. KHABIROV (Union of Soviet Socialist Republics) endorsed the proposal made by the representative of Germany.

58. Mr. HERNANDEZ BASAVE (Mexico) suggested that the words "for the completion of its work" should be added at the beginning of the paragraph; the rest of the first sentence would remain the same. The Subcommittee should then adopt the solution proposed by the representative of Germany, and should indicate that the documents in question had been submitted at the end of the session.

59. The CHAIRMAN suggested that two sentences should be inserted before the second sentence, one indicating that the United States delegation had submitted document A/AC.105/C.2/L.185 and the other indicating that the German and Canadian delegations had submitted document A/AC.105/C.2/L.154/Rev.9. If he heard no objection, he would take it that the Subcommittee wished to adopt that suggestion.

60. It was so decided.

61. Paragraph 4, as amended, was adopted.

Paragraphs 5, 6 and 7

62. Paragraphs 5, 6 and 7 were adopted.

63. Document A/AC.105/C.2/L.181/Add.6, as amended, was adopted.

64. The CHAIRMAN said that document A/AC.105/C.2/L.181/Add.7 would be inserted in the report after document A/AC.105/C.2/L.181/Add.6.

65. Mr. HERNANDEZ BASAVE (Mexico) requested that a change should be made in paragraph 5 of document A/AC.105/C.2/L.181/Add.7. A proposal made by his delegation, which had been adopted by the Working Group on Agenda Item 3, had been inaccurately reflected in that paragraph.

66. The CHAIRMAN said that he could not accede to the request made by the representative of Mexico without the Subcommittee's consent, since document A/AC.105/C.2/L.181/Add.7 had already been adopted by the Working Group and approved by the Subcommittee.

67. After a procedural discussion in which Mr. HERNANDEZ BASAVE (Mexico), Mr. BOYER (France), Mr. GONZALEZ (Chile), Mr. SCHAFER (Germany) and Mr. KHABIROV (Union of Soviet Socialist Republics) participated, the CHAIRMAN said, if he heard no objection, he would take it that the Subcommittee agreed to reconsider paragraph 5 of document A/AC.105/C.2/L.181/Add.7.

68. It was so decided.

69. Mr. HERNANDEZ BASAVE (Mexico) proposed that paragraph 5 of document A/AC.105/C.2/L.181/Add.7 should be amended to indicate that the beginning of paragraph 12 of document A/AC.105/C.2/WG/NPS(1991)/DR.1 should read as follows: "In accordance with the agreement reached by the Working Group at

(Mr. Hernandez Basave, Mexico)

the twenty-ninth session of the Legal Subcommittee (A/AC.105/457, annex I, para. 12), in order to consider in the light of Principle 7 the question of the proper location of a provision reflecting the content of ...". Paragraph 12 would then continue as currently worded up to the words "in document A/AC.105/C.2/L.178", after which the comma would be replaced by a full stop, and the words "should be" would be replaced by "Some delegations proposed that this text should be". The rest of paragraph 12 would remain unchanged.

70. The CHAIRMAN said that, if he heard no objection, he would take it that the Subcommittee decided to adopt paragraph 5 of document A/AC.105/C.2/L.181/Add.7 as amended by the representative of Mexico.

71. It was so decided.

A/AC.105/C.2/L.181/Add.1

Paragraphs 1 to 6

72. Paragraphs 1 to 6 were adopted.

Paragraph 7

73. Paragraph 7 was adopted.

74. Document A/AC.105/C.2/L.181/Add.1 was adopted.

75. The CHAIRMAN noted that document A/AC.105/C.2/L.181/Add.2 would be inserted into the report following document A/AC.105/C.2/L.181/Add.1.

A/AC.105/C.2/L.181/Add.3

Paragraphs 1 to 4

76. Paragraphs 1 to 4 were adopted.

Paragraph 5

77. Mr. SCHAFER (Germany), supported by Mr. KHABIROV (Union of Soviet Socialist Republics), proposed that the word "compilation" in the first line should be replaced by "unofficial compilation".

78. Paragraph 5, as amended, was adopted.

Paragraph 6

79. Paragraph 6 was adopted.

Paragraphs 7 and 8

80. Mr. PERRI (Brazil) said that paragraphs 7 and 8 did not belong in that part of the report, since the issues they referred to did not come under agenda item 5. He therefore proposed the insertion of those paragraphs into the introductory section, which should be possible without making any major changes.

81. Mr. WINKLER (Austria) said that, on the contrary, the organizational issues mentioned in paragraphs 7 and 8 had been raised in the context of item 5. The fact that some delegations had considered that approach inappropriate was indicated in paragraph 8. If paragraphs 7 and 8 were moved, that indication would no longer make sense. Moreover, it was important that the Subcommittee's report should reflect faithfully what had actually occurred.

82. Mr. KHABIROV (Union of Soviet Socialist Republics) said that he agreed with the representative of Austria. When the statement on working methods had been made at the 544th meeting, his delegation had been tempted to raise a point of order but, in a spirit of conciliation, had not done so. Paragraphs 7 and 8 should remain where they were, and the indication they contained that those issues had been raised at an inappropriate time would be a good lesson for the future.

83. Mr. BOYER (France) said that although he had, at the 544th meeting, expressed doubts about the appropriateness of raising the issues mentioned in paragraphs 7 and 8 in the context of item 5, he fully supported the position of the representative of Austria for procedural reasons. Moving the paragraphs would amount to raising a point of order in retrospect, which was unacceptable.

84. Mr. GONZALEZ (Chile) recalled that the Subcommittee's mandate under agenda item 5 derived, in fact, from a proposal by the Austrian delegation, and in no way included the consideration of such issues as the utilization of conference services or working methods.

85. The CHAIRMAN pointed out that the question of observer participation had been taken up at meetings devoted to various agenda items, which had not prevented all questions relating to requests for participation from being summarized in a paragraph at the beginning of the report, which simply indicated the numbers of the meetings at which a decision had been taken on such requests. It should therefore be equally possible to move paragraphs 7 and 8 as requested by the representative of Brazil, especially since the debate mentioned in those paragraphs had taken place after the last statement on agenda item 5 - that made by the representative of the United Kingdom in exercise of the right of reply. He felt that either solution - leaving paragraphs 7 and 8 where they were or inserting them into the introductory section - was feasible.

86. Mr. BOYER (France) countered that the issues mentioned in paragraphs 7 and 8 had first been raised by the United Kingdom representative in a statement on agenda item 5. While some delegations, including his own, had expressed doubts at the time about the appropriateness of such a debate in the context of item 5, they had not raised a point of order. It was therefore not permissible, from a strictly procedural standpoint, to decide after the fact to dissociate that debate from item 5.

87. Mr. ZAWELS (Argentina) asked the representative of the United Kingdom whether he had seen a connection between the organizational issues he had raised and agenda item 5, or whether he had mentioned them at that point simply because the issues under item 5 had been discussed in full and there was still some time left. In the latter case, it would probably be more logical to move paragraphs 7 and 8.

88. Mr. YOUNG (United Kingdom) said that his delegation understood the concerns of the Brazilian, Chilean and Argentinian delegations. If all other delegations wished to move paragraphs 7 and 8, it would be prepared to accept that. Nevertheless, it had some reservations with respect to the appropriateness of resuming consideration of something which had already been agreed upon.

89. Mr. GONZALEZ (Chile) said that the representative of the United Kingdom had not really answered the question posed by the representative of Argentina. He, in his turn, asked whether there was any legal link between the utilization of conference services and agenda item 5.

90. Mr. PERRI (Brazil) thanked the representative of the United Kingdom for demonstrating a spirit of conciliation. He hoped that the debate to which his proposal had given rise would, in future, persuade the Subcommittee to avoid straying from the agenda item being considered at a particular meeting. Since item 5 was a subject very close to its heart, his delegation was keen to ensure that other matters were not discussed during the time allotted to it. In the interests of conciliation, it, in its turn, would agree to leave paragraphs 7 and 8 as they were, subject to the addition of something along the lines of: "Some delegations expressed the view that it was improper to raise the question of working matters under item 5. Therefore those delegations also expressed the view that a short and untimely debate on that question should have been reflected in some other part of the report and not under item 5."

91. Mr. HODGKINS (United States of America) noted that about one third of paragraph 60 of the Subcommittee's previous report (A/AC.105/457), which came under the section addressing agenda item 5, was devoted to organizational matters. No objection had been raised to that fact at the previous session. He therefore suggested that the Subcommittee should display similar flexibility at the current session and retain paragraphs 7 and 8 in their present position without any change.

92. Mr. KHABIROV (Union of Soviet Socialist Republics) thanked the representative of Brazil for his spirit of conciliation and endorsed his new proposal.

93. Mr. GONZALEZ (Chile) said he was very sorry to have received no reply from the representative of the United Kingdom. Unlike the representative of the United States, he did not think that the situation referred to in paragraph 60 of the previous year's report could be compared with that currently under consideration.

94. Mr. BOYER (France) said that his delegation could accept the proposal made by the representative of Brazil, although it did not find it entirely satisfactory.

95. Mr. PERRI (Brazil) suggested the addition of a paragraph 8 bis, to read as follows: "Some delegations expressed the view that it was improper to raise the question of working matters under item 5; therefore, those delegations also expressed the view that a short and untimely debate on that question should have been reflected in some other part of the report and suggested that the corresponding paragraphs should have been moved, for example, to the introductory section of the report."

96. Mr. HODGKINS (United States of America) said that paragraph 8 in its current form re-established the balance desired by some delegations with respect to paragraph 7. The latest proposal by the representative of Brazil did not truly reflect what had happened.

97. The CHAIRMAN wondered whether the text proposed by the representative of Brazil should not conclude after the words "item 5". What followed related to the debate at the current meeting, which could not be included in the report.

98. Mr. PERRI (Brazil) proposed, in order to accommodate the Chairman's objection, that his amendment should conclude as follows: "... that a short and untimely debate on that question should be reflected in the introductory section of the report".

99. Mr. YOUNG (United Kingdom) believed, like the Chairman, that the amendment proposed by the representative of Brazil should conclude after the words "item 5". The text which followed, whether in its first or second version, did not reflect what had happened.

100. Mr. HERNANDEZ BASAVE (Mexico) said that his delegation was prepared to accept either one of the solutions suggested by the representatives of Brazil and the United Kingdom respectively. However, he wished to recall his statement at the 544th meeting, when some delegations had called for adherence to the agenda for that meeting, to the effect that consideration of the report on the general debate, for example, would constitute a more appropriate framework for discussion of organizational matters. The second part of the amendment proposed by the representative of Brazil was, therefore, relevant.

101. Mr. YOUNG (United Kingdom) objected that, in his opinion, the second part of the amendment proposed by the representative of Brazil went much further than the statement made by the representative of Mexico at the 544th meeting.

102. Mr. BOYER (France) wondered whether the representative of Brazil, who had already made one effort to overcome the deadlock, might not take one further step and withdraw the entire second part of his amendment.

103. Mr. PERRI (Brazil) replied that he had already redrafted the second part of his amendment in order to make it more acceptable to some delegations. He could go no further. If one were to add "i.e. the part devoted to the general debate", the last intervention by the representative of Mexico would counter any further objection.

104. Mr. YOUNG (United Kingdom) said that he would, in a spirit of compromise, be prepared to accept the second part of the amendment if the words "short and untimely" were deleted.

105. Mr. PERRI (Brazil) agreed to withdraw the word "untimely".

106. Mr. YOUNG (United Kingdom) thanked the representative of Brazil and, in his turn, withdrew the rest of his sub-amendment.

107. Mr. HODGKINS (United States of America) asked whether, instead of adding a paragraph 8 bis, it would not be possible to incorporate the text proposed by the representative of Brazil into paragraph 8.

108. Mr. PERRI (Brazil) said that he wished to see his amendment reflected in a separate paragraph 8 bis.

109. Mr. BASNAYAKE (Secretary of the Subcommittee) read out the final version of paragraph 8 bis: "Some delegations expressed the view that it was improper to raise the question of working matters under agenda item 5. Those delegations also expressed the view that a short debate on that question should be reflected in the introductory section of the report."

110. Paragraphs 7, 8 and 8 bis were adopted.

Paragraphs 9 and 10

111. Paragraphs 9 and 10 were adopted.

Paragraph 11

112. Mr. ZAWELS (Argentina) requested that the words "and commented upon" be added in the second line, following the word "circulated".

113. Paragraph 11, as amended, was adopted.

114. Document A/AC.105/C.2/L.181/Add.3 was adopted.

115. The CHAIRMAN said that document A/AC.105/C.2/L.181/Add.5 would constitute the final part of the report and that, in all the fascicles of the draft report, the blanks left for figures and the number and dates of meetings would be filled in by the Secretariat.

116. The report of the Subcommittee was adopted in its entirety.

117. The CHAIRMAN thanked all delegations for their cooperation, expressed his particular gratitude to the chairmen of the three working groups and all those members of the Secretariat who had, whether seen or unseen, contributed to the work of the Subcommittee and announced the conclusion of the thirtieth session.

The meeting rose at 1.35 p.m.